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Attorneys for Plaintiffs

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Attorneys for Defendants
COUNTY OF ALAMEDA, ALAMEDA
COUNTY SHERIFF CHARLES C. PLUMMER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL SCHAFFER, on behalf of himself
and all those similarly situated;

Plaintiffs,

vs.

COUNTY OF ALAMEDA, ALAMEDA
COUNTY SHERIFF CHARLES C.
PLUMMER, IN HIS INDIVIDUAL AND
OFFICIAL CAPACITIES, ALAMEDA
COUNTY SHERIFF'S DEPUTIES DOES 1
THROUGH 50, AND ROES 1 THROUGH
20, INCLUSIVE,

Defendants.

Case No.: C 06 0310 MMC

**ORDER FOR PRELIMINARY
APPROVAL OF SETTLEMENT OF
CLASS ACTION**

Date: June 15, 2007

Time: 9:00 a.m.

Courtroom: 7

District Judge: Hon. Maxine M. Chesney

WHEREAS, plaintiff DANIEL SCHAFFER, on behalf of himself and all persons similarly
situated, by and through his attorney, Mark E. Merin of the Law Office of Mark E. Merin, and
defendants, COUNTY OF ALAMEDA and ALAMEDA COUNTY SHERIFF CHARLES C.

1 PLUMMER, by and through their counsel, Gregory J. Rockwell of the law firm Boornazian,
2 Jensen & Garthe, have entered into an Amended Stipulation of Settlement intending to resolve all
3 claims raised in this class action pending in this Court;

4 WHEREAS, the Amended Stipulation of Settlement, together with the supporting
5 materials, sets forth the terms and conditions for a proposed settlement and dismissal with
6 prejudice of the pending above-captioned class action against all defendants;

7
8 WHEREAS, the Court has before it and has reviewed the parties' Stipulated Motion for
9 Preliminary Approval of Settlement of Class Action together with the Amended Stipulation of
10 Settlement and supporting materials; and

11 WHEREAS, the Court is satisfied that the terms and conditions set forth in the Amended
12 Stipulation of Settlement were the result of good faith, arms' length settlement negotiations
13 between competent and experienced counsel for both plaintiffs and defendants, after mediation
14 before the Honorable Raul Ramirez (Retired);

15
16 IT IS HEREBY ORDERED AS FOLLOWS:

17 **I. PRELIMINARY APPROVAL OF SETTLEMENT**

18 1. The terms of the Amended Stipulation of Settlement are hereby preliminarily approved,
19 subject to further consideration thereof at the Fairness Hearing provided for below.

20 The Court finds that the settlement is sufficiently within the range of reasonableness
21 and that notice of the proposed settlement should be given as provided in this Order.

22 2. The Court further finds that plaintiff DANIEL SCHAFFER is an adequate class
23 representative for the settlement class.

24 3. The Court further finds that plaintiffs' counsel Mark E. Merin of the Law Office of
25 Mark E. Merin is adequate class counsel.
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4. The Court approves the Notice of Proposed Settlement of Class Action Strip Search Case attached hereto as Exhibit A and further approves the method by which notice is proposed to be given.
5. If, pursuant to the terms of the Amended Stipulation of Settlement, the settlement is not consummated, the preliminary approval of the Amended Stipulation of Settlement shall be void and the parties shall have reserved all of the rights to continue with any litigation or further mediation or settlement discussions.
6. The Bar Date, as defined in paragraph 2 of the Amended Stipulation of Settlement shall be **October 11, 2007**.

II. NOTICE TO SETTLEMENT CLASS MEMBERS, APPROVAL OF CLASS COUNSEL, AND EMPLOYMENT OF CLASS CLAIM ADMINISTRATOR

7. Counsel for the class ("class counsel") is as follows:

Mark E. Merin, Esq.
Law Office of Mark E. Merin
2001 P Street, Suite 100
Sacramento, CA 95814
(916) 443-6911 - Telephone
(916) 447-8336 - Facsimile

8. Counsel for defendants are as follows:

Gregory J. Rockwell, Esq.
Boornazian, Jensen & Garthe
A Professional Corporation
555 12th Street, Suite 1800
P. O. Box 12925
Oakland, CA 94604-2925
Telephone: (510) 834-4350
Facsimile: (510) 839-1897

9. Class Claims Administrator is as follows:

Gilardi and Company, LLC
P.O. Box 1110
Corte Madera, CA 94976-1110
(415) 461-0410 - Telephone
(800) Toll Free Number to be arranged.
(415) 461-0412 - Facsimile

1 10. Beginning no later than 30 days from the date of this Order, counsel for the parties
2 acting with the Class Claims Administrator shall cause to be disseminated the Notice
3 and Claim Form, substantially in the form attached hereto as Exhibits A and B, in the
4 manner set forth in paragraphs 66 through 68 of the Stipulation of Settlement. Such
5 summary notice as the parties agree will be published in accordance with the Amended
6 Stipulation of Settlement. Class members will have up to and including **October 11,**
7 **2007**, in which to object to this settlement or file claims. Prior to the Fairness Hearing,
8 the Claims Administrator shall file and serve a sworn statement attesting to compliance
9 with the provisions of this paragraph.
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11 11. The notice to be provided as set forth in the Amended Stipulation of Settlement is
12 hereby found to be the best means practicable of providing notice under the
13 circumstances and, when completed, shall constitute due and sufficient notice of the
14 proposed settlement and of the Fairness Hearing to all persons and entities affected by
15 and/or entitled to participate in the settlement, in full compliance with applicable
16 statutes and Constitution of the state of California, due process, the Constitution of the
17 United States and all other applicable laws. The notices are accurate, objective,
18 informative and provide class members with all of the necessary information to make
19 an informed decision regarding their participation in the settlement and its fairness.
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21 12. Counsel for the respective parties are authorized to retain Gilardi and Company, LLC,
22 P.O. Box 1110, Corte Madera, CA 94976-1110, as Class Claims Administrator in
23 accordance with the Amended Stipulation of Settlement and this Order.
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1 **III. REQUESTS FOR EXCLUSION FROM THE SETTLEMENT CLASS**

2 13. Any member of the Settlement Class who wishes to be excluded (“Opt Out”) from the
3 Settlement Class must send a written request for exclusion to the Court at the address
4 indicated in the Notice, postmarked on or before the Bar Date. The request for
5 exclusion shall fully comply with the requirements set forth in the Amended Stipulation
6 of Settlement. Members of the Settlement Class may not exclude themselves by filing
7 requests for exclusions as a group or class, but must, in each instance, individually and
8 personally execute a request for exclusion and timely transmit it to the Court.
9

10 14. Any member of the Settlement Class who does not properly and timely request
11 exclusion from the Settlement Class shall be bound by all of the terms and provisions
12 of the Amended Stipulation of Settlement, including but not limited to the releases,
13 waivers, and covenants described in the Amended Stipulation of Settlement, whether or
14 not such person objected to the settlement and whether or not such person made a claim
15 under the terms of the Amended Stipulation of Settlement.
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17 **IV. THE FAIRNESS HEARING**

18 15. A hearing on final approval, the “Fairness Hearing,” is hereby scheduled to be held
19 before this Court on **November 16, 2007**, at **9:00 a.m.**, to consider the fairness,
20 reasonableness, and adequacy of the proposed settlement, the dismissal with prejudice
21 of this class action complaint with respect to the released parties herein, and the entry
22 of final judgment in the class action. Class counsels’ application for an award of
23 attorneys’ fees and costs shall be heard at the time of the Fairness Hearing. The motion
24 for final approval and class counsels’ application for an award of attorneys’ fees and
25 costs shall be filed no later than **November 2, 2007**.
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- 1 16. The date and time of the Fairness Hearing shall be set forth in the Notice, but the
2 Fairness Hearing shall be subject to adjournment by the Court without further notice to
3 the members of the settlement class other than that which may be issued by the Court.
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- 5 17. Any person who does not elect to be excluded from the settlement class may, but need
6 not, enter an appearance through his or her own attorney. Settlement class members
7 who do not enter an appearance through their own attorneys will be represented by
8 class counsel.
- 9 18. Any person who does not elect to be excluded from the settlement class may, but need
10 not, submit comments or objections to the proposed settlement. Any class member
11 may object to the proposed settlement, entry of the final order and judgment approving
12 the settlement, and class counsels' application for fees and expenses by filing and
13 serving a written objection.
14
- 15 19. Any class member making the objection (an "objector") must sign the objection
16 personally. Any objection must state why the objector objects to the proposed
17 settlement and provide the basis to support such position. If an objector intends to
18 appear personally at the Fairness Hearing, the objector must include with the objection
19 a notice of the objector's intent to appear at the hearing.
- 20 20. Objections, along with any notice of intent to appear, must be filed with the Court no
21 later than **October 11, 2007**. If counsel is appearing on behalf of more than one class
22 member, counsel must identify each such class member and each class member must
23 have complied with the requirements of this order. The documents must be filed with
24 the clerk of the Court at the following address: United States District Court, Northern
25 District of California, 450 Golden Gate Avenue, 16th Floor, San Francisco, California
26 94102.
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1 21. Objections, along with any notice of intent to appear, must also be mailed to class
2 counsel and counsel for defendants at the addresses listed below:

3 Counsel for the class ("class counsel") is as follows:

4 Mark E. Merin, Esq.
5 Law Office of Mark E. Merin
6 2001 P Street, Suite 100
7 Sacramento, CA 95814
(916) 443-6911 - Telephone
(916) 447-8336 - Facsimile

8 Counsel for defendants are as follows:

9 Gregory J. Rockwell, Esq.
10 Boornazian, Jensen & Garthe
11 A Professional Corporation
12 555 12th Street, Suite 1800
13 P. O. Box 12925
Oakland, CA 94604-2925
Telephone: (510) 834-4350
Facsimile: (510) 839-1897

14 22. Only class members who have filed and served valid and timely notices of objection
15 shall be entitled to be heard at the Fairness Hearing. Any class member who does not
16 timely file and serve an objection in writing to the settlement, entry of final order and
17 judgment, or to class counsels' application for fees and expenses, in accordance with
18 the procedure set forth in the class notice and mandated in the order, shall be deemed to
19 have waived any such objection by appeal, collateral attack, or otherwise.

20 23. Persons wishing to be heard at the Fairness Hearing are required to file written
21 comments or objections and indicate in their written comments or objections their
22 intention to appear at the Fairness Hearing. Settlement class members need not appear
23 at the hearing or take any other action to indicate their approval.

24 24. All members of the settlement class who do not personally and timely request to be
25 excluded from the class are enjoined from proceeding against the defendants until such
26 time as the Court renders a final decision regarding approval of the settlement and, if
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1 the settlement is approved, enters final judgment as provided in the Amended
2 Stipulation of Settlement.

3 **V. OTHER PROVISIONS**

4 25. Upon approval of the settlement provided for in the Amended Stipulation of
5 Settlement, each and every term and provision thereof shall be deemed incorporated
6 herein as if expressly set forth and shall have the force and effect of an order of this
7 Court.
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9 26. The Honorable Raul Ramirez, United States District Court Judge, retired, is hereby
10 appointed to serve as Special Master to review and resolve certain disputes which may
11 arise pursuant to the terms of the Amended Stipulation of Settlement.
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13 27. All reasonable costs incurred in notifying members of the settlement class as well as
14 administering the Amended Stipulation of Settlement shall be paid as set forth in the
15 Amended Stipulation of Settlement.

16 IT IS SO ORDERED.

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18 DATED: June 20, 2007

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20 HON. MAXINE M. CHESNEY
21 JUDGE OF THE UNITED STATES DISTRICT COURT
22 NORTHERN DISTRICT OF CALIFORNIA
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